

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Harold Weldon

96-02861

Name of Respondents

Prudential Securities Inc.
Smith Barney Shearson, Inc.
Commonwealth Associates, Inc.
Gilford Securities Inc.
Jeffrey George Nunez

REPRESENTATION

For claimant Harold Weldon ("claimant") appeared his representative John B. Lyle, Esq., a sole practitioner located in Marietta, Georgia.

For respondent Commonwealth Associates, Inc. ("Commonwealth") appeared its representative J.P. Wilson.

For respondent Gilford Securities, Inc. ("Gilford") appeared its representative and in-house counsel, Joel Levinson, Esq.

For respondent Jeffrey George Nunez ("Nunez") appeared his representative Michael Kalmus, Esq. of the law firm Kalmus & Martuscello located in New York, New York.

The claims against respondents Prudential Securities, Inc. ("Prudential") and Smith Barney Shearson, Inc. ("SBS") were withdrawn prior to the hearing on the merits.

CASE INFORMATION

Statement of Claim filed: July 5, 1996.

Amended Statement of claim filed on: November 21, 1996.

Claimant's Submission Agreement signed on: July 3, 1996.

Joint Statement of Answer filed by respondent Gilford and Nunez on: August 23, 1996.

Respondent Gilford's Submission Agreement signed on: September 18, 1996.

Joint Statement of Answer file by respondents Commonwealth and Nunez on: January 18, 1997.

Respondent Commonwealth's Submission Agreement signed on: October 16, 1997.

Joint Statement of Answer filed by respondents Prudential and Nunez on: January 20, 1997.

Respondent Prudential's Submission Agreement signed on: January 20, 1997.

Joint Statement of Answer filed by respondents SBS and Nunez on: January 20, 1997.

Respondent SBS's Submission Agreement signed on: January 20, 1997.

HEARING INFORMATION

Hearing Dates/Sessions:	May 28, 1997	-	two sessions
	May 29, 1997	-	two sessions

The hearing was conducted at the Terrace Garden Hotel located at 3405 Lennox Road in Atlanta, Georgia.

CASE SUMMARY

Claimant alleged that he is seventy-one years old, inexperienced and retired. Claimant further alleged that he began investing with Nunez, probably at SBS, in the late 80's and that he immediately started the process of transferring his investments from conservative safe vehicles to risky investments. Claimant further alleged that in 1995, while employed by Gilford, Nunez failed to follow his instructions to sell shares of Arakis Energy. Claimant also alleged that Nunez told him that he would follow the price of the stock and sell it if it became necessary. Claimant contended that the value of the stock greatly declined but that Nunez did not sell it causing him substantial losses.

Claimant contended that in November of 1995, he instructed Nunez to eliminate the margin balance in his accounts by selling shares of Activision which went ignored. Claimant further contended that during this time Nunez left his employment with Gilford and went to Commonwealth. Claimant also contended that he transferred his account from Gilford to Commonwealth. Claimant asserted that because his request to sell Activision shares went unheeded, he lost substantial value from his account.

Claimant alleged that Nunez, Gilford and Commonwealth occupied a position of special confidence and trust as to him which requires them to exercise the utmost good faith and fair dealing with regard to his accounts. Claimant further alleged that the acts of respondents breached this duty and was gross negligence. Claimant also alleged that Gilford and Commonwealth failed to monitor and supervise Nunez.

Respondents Gilford and Nunez maintained that claimant made his own investment decisions and now attempting to blame them for his bad decisions. Respondents further maintained that claimant's statements about how he instructed Nunez to sell shares of Akaris are inconsistent. Respondents also maintained that claimant has a specific price in mind for selling the shares and was only able to sell 1,400 shares at first. Respondents maintained that they could not obtain that price for the remaining shares. Respondents contended that claimant agreed to let Nunez use his discretion on selling the remainder of the shares and that claimant accepted this advice. Respondents further contended that claimant fully understand the use of margin and the extent to which his account was margined. Respondents also contended that as a result of the above, they should not be held liable.

Respondents Commonwealth and Nunez maintained that claimant has failed to state a cause of action. Respondents further maintained that all trades in the account were properly solicited and effected by a registered representative. Respondents also maintained that all trades met with claimant's investment objectives, investment experience and his rather high tolerance for risk. Respondents contended that all trades were authorized and approved before execution by claimant who was fairly sophisticated and who controlled the brokerage account at all times. Respondents further contended that they properly handled his account and engaged in fair dealing at all times. Respondents also contended that claimant used the margin account because he had expenses to pay and did not want to get penalized for removing funds from his IRA. Respondents asserted that they followed claimant's direction to liquidate his margin account and that it took several months to accomplish an orderly liquidation. Respondents further asserted that as a result of the above, they should not be held liable.

Respondents Prudential and Nunez maintained that claimant had accounts with Prudential from May 1992 to December 1993. Respondents further maintained that he had as his investment objectives speculation and income. Respondents also maintained that claimant ratified all of the transactions by not raising timely objections regarding the trading activity. Respondents contended that as a result of the above, they should not be held liable.

Respondents SBS and Nunez maintained that claimant was fully aware of the transaction effected in his SBS account. Respondents also maintained that claimant held GNMA investments while he had an account at SBS. Respondents further maintained that although claimant did purchase stocks, this component did not comprise his entire portfolio. Respondents also maintained that claimant requested that a margin account be opened and that he received cash and did not complain about its use. Respondents contended that as a result of the above, they should not be held liable.

RELIEF REQUESTED

Claimant requested compensatory damages of \$200,000.00 plus prejudgment interest, punitive damages, costs and reasonable attorney's fees.

Respondents Gilford and Nunez requested that the claims be dismissed in their entirety.

Respondents Commonwealth and Nunez requested that the claims be dismissed in their entirety plus an award of attorney's fees, costs and other such relief as the panel deems appropriate.

OTHER ISSUES CONSIDERED & DECIDED

The arbitration panel made the following rulings concerning respondent Nunez who did not file a Submission Agreement in this matter:

1. Pursuant to Rule 10101 of the NASD Code of Arbitration Procedure (the "Code"), the panel found subject matter jurisdiction over this entire controversy.
2. The panel found that respondent Nunez was an associated person of a NASD member firm at the time this controversy arose. Consequently, the panel found personal jurisdiction over respondent Nunez pursuant to Rule 10301 of the Code.
3. In view of (2) above, the panel found that respondent Nunez was required to file with NASD Regulation a properly executed Submission Agreement pursuant to Rule 10314(b) of the Code. In this regard, the panel found that the Statement of Claim was properly served upon respondent Nunez, pursuant to Rule 10314(a) of the Code.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with NASD Regulation.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Gilford Securities, Inc. and George Nunez be and hereby are jointly and severally liable and shall pay to claimant Harold Weldon \$10,000.00 in actual damages.
2. Respondents Commonwealth Associates, Inc. and George Nunez be and hereby are jointly and severally liable and shall pay to claimant Harold Weldon \$10,000.00 in actual damages.
3. The parties shall bear their respective costs and attorney's fees.
4. All other relief requests are denied.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation shall retain the \$200 non-refundable filing fee previously deposited by claimant and have assessed the following forum fees:

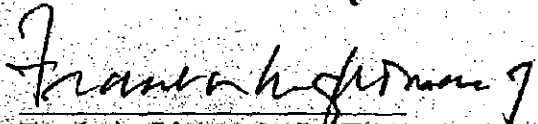
four sessions x \$750.00	= \$3,000.00
minus claimant's \$750.00 hearing session deposit	= \$ 750.00
total outstanding	= \$2,250.00

Respondents Commonwealth Associates, Inc., Gilford Securities, Inc. and Jeffrey George Nunez be and hereby are jointly and severally liable and shall pay to claimant Harold Weldon \$750.00 in reimbursement of the hearing session deposit.

In addition, respondents Commonwealth Associates, Inc. Gilford Securities, Inc. and Jeffrey George Nunez are each separately liable for \$750.00 in forum fees accounting for the \$2,250.00 of outstanding forum fees. Therefore, each respondent shall pay to NASD Regulation \$750.00 in satisfaction of outstanding forum fees.

ARBITRATORS' SIGNATURES

I, Frank A. Lightmas, Jr., Esq., do hereby swear or affirm that I am the individual described herein, and who executed this instrument which is my oath and award.



Frank A. Lightmas, Jr., Esq.
Public Chairperson

I, Manuel Pressman, CPA, do hereby swear or affirm that I am the individual described herein, and who executed this instrument which is my oath and award.

Manuel Pressman, CPA
Public Panelist

I, Richard G. Isaac, do hereby swear or affirm that I am the individual described herein, and who executed this instrument which is my oath and award.

Richard G. Isaac
Industry Panelist

Date of Decision: July 24, 1997

ARBITRATORS' SIGNATURES

I, Frank A. Lightmas, Jr., Esq., do hereby swear or affirm that I am the individual described herein, and who executed this instrument which is my oath and award.

Frank A. Lightmas, Jr., Esq.
Public Chairperson

I, Manuel Pressman, CPA, do hereby swear or affirm that I am the individual described herein, and who executed this instrument which is my oath and award.

Manuel Pressman
Manuel Pressman, CPA
Public Panelist

I, Richard G. Isaac, do hereby swear or affirm that I am the individual described herein, and who executed this instrument which is my oath and award.

Richard G. Isaac
Industry Panelist

Date of Decision: July 24, 1997

ARBITRATORS' SIGNATURES

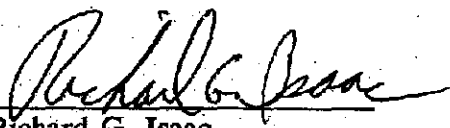
I, Frank A. Lightmas, Jr., Esq., do hereby swear or affirm that I am the individual described herein, and who executed this instrument which is my oath and award.

Frank A. Lightmas, Jr., Esq.
Public Chairperson

I, Manuel Pressman, CPA, do hereby swear or affirm that I am the individual described herein, and who executed this instrument which is my oath and award.

Manuel Pressman, CPA
Public Panelist

I, Richard G. Isaac, do hereby swear or affirm that I am the individual described herein, and who executed this instrument which is my oath and award.


Richard G. Isaac
Industry Panelist

Date of Decision: July 24, 1997